

Confidential Claim Retracted

Authorized by: SE

Date: 6/25/83

Natural Resource Committee  
Project Status Report  
Jackpile/Paguate Mine  
November 22, 1983

*Keating*  
**FILE COPY**

The Jackpile/Paguate Reclamation Project has many aspects to it. The Pueblo is participating in this major environmental project through its Legal Assistant and Natural Resource Committee with the assistance of CERT, Hydro Geo Chem, its attorneys and reliance on the various agencies of the federal government because of the existing trust relationship.

ENVIRONMENTAL IMPACT STATEMENT

The original time frame has been set-back, but the additional time is to the advantage of the Pueblo for reasons I will describe below. A "Preliminary Draft" is now scheduled to be published for limited dissemination and review by the participating agencies in mid or late January, 1984. The new schedule is as follows: (1) Preliminary Draft to be issued in late January or early February; (2) Draft issued on/about April 1st; (3) a 60 day public comment period will follow the issuance of the Draft; (4) a public hearing will be conducted in May; (5) the Final EIS would be issued on/about October 1st; and (6) a Secretarial Decision Document would be issued in late November or early December. A "Working Paper" was previously given to the Pueblo and Anaconda in August of this year. Marc Nelson, former BLM Task Force Leader has moved into private industry and is now associated with Jacobs Engineering. Mike Pool has taken his place and the Pueblo's Natural Resource Committee and Legal Assistant have had discussions with him. He is having Argonne prepare a synopsis of their radiological study entitled "Radiological Impacts of Jackpile-Paguate Uranium Mines", March, 1983, and an analysis of the most recent pit drainage plans proposed by the AAO/BIA. Further, BLM is considering our request for combining Department resources in order to study the blast damage issue. The Bureau of Mines (BOM) has recently completed its study on the impacts. According to Mike Pool the study did not conclude in favor of the Pueblo, i.e., the Company may have been responsible for some of the cosmetic damage, but not responsible for the structural damage. The Pueblo has recently sent letters to the Assistant Secretary of Indian Affairs requesting that he identify and encourage the coordination of the Department's resources in order to study this issue via the U.S. Geological Survey's vibrations experts, e.g., Office of Earthquakes, Volcanoes and Engineering. Roland Johnson and I met with Mr. Ken King of said Office and he is willing to do the study upon completion of his Chaco Canyon project, however, this issue may require some political assistance. Also, there are certain drawbacks that the Council should consider. One is that Mr. Ken King's study may reveal no causal connection between



9403955

the blasting during mining operations and the cosmetic and structural conditions of the homes at Pagate. Hence, our argument for fixing the homes as part of reclamation or direct payments to home owners would appear to have no merit. This issue is one where the Pueblo has no support from any of the agencies that have examined this problem. The study that was done for Anaconda by Louis Oriard concludes that the Company is not liable. The unpublished study (as of this date) by David Siskind of the Bureau of Mines concludes that Anaconda is not liable. The approaches to the problem have their bases in the review of seismographic data. Mr. King's background is in vibration studies. We have requested that the Assistant Secretary assist us in the further study of this problem. The Department will more than likely balk at this request since its in-house expert agency--The Bureau of Mines has concluded that the Company is not liable. The other alternative is to not study this issue any further, but to negotiate a reclamation cost settlement with Anaconda which would include a specific dollar amount for compensation to the residents of the Village of Pagate. It is clear at this point in the EIS process that with regard to the blast damage issue the Pueblo's argument for reclamation of the home/direct compensation is not supported by any federal agency. A strategy must be established with Council input. If the decision of Council is to continue to pursue this issue then political contacts must be made as well as discussions with the various agency heads.

The NRC recently met with Mr. Wayne Bliss of EPA (from Las Vegas, Nevada) in order to review and discuss the radiological concerns that the Pueblo is confronted with. Many of you will recall that former Governor Correa was successful in drawing national attention to the radiological concerns of the Pueblo wherein EPA conducted a mobile gamma survey and a report was subsequently issued. The NRC asked whether or not EPA still had jurisdiction to monitor the environment during reclamation activities and to update the previous gamma survey. Mr. Bliss advised the Pueblo to make our request directly to Mr. Shoblum, his supervisor in Washington, D.C. Mr. Bliss was willing to assist the Pueblo in the future. Recall that EPA was initially identified as a "participating agency" prior to the Reagan administration. With the change in the administration came a diminishment of EPA's regulatory functions and hence limited jurisdiction and very little autonomy.

### Health Impacts

The Pueblo, in initial meetings with the EIS Task Force, requested that the health impacts on the residents of the Village of Pagate and former long-term miners be determined. The Indian Health Service which has been previously identified as a participating agency was supposed to have studied this issue and provide input on the EIS. For reasons unknown to the Pueblo the IHS did not seek to establish a health profile on

the residents, e.g., major causes of death, particular illnesses, unusual incidence of disease, etc., nor did it establish a procedure for interviewing and examining former miners. However, during the course of 1983 (August, 1983), Pueblo representatives met with Dr. Everett Rhoades in Rockville, Maryland, in order to request that the IHS once again take an active role in the development of the EIS. Dr. Rhoades and his staff asked that we coordinate with the local service unit in establishing a plan for interviewing and examining former miners. One of Dr. Rhoades staff members, Mr. Bruce Chelikowsky, recently prepared a major study entitled "Health Hazards Related to Nuclear Resource Development on Indian Land." For this reason the IHS felt that the timing was right for a possible addition to their budget for a site specific health impacts study. It would consist of a thorough review of the health histories of residents of the Village of Paguate to see if any significant trends in diseases, illnesses, or causes of death can be identified. The purpose here is twofold: (1) to identify significant medical needs on the part of Paguate residents; and (2) the identification of any possible legal causes of action that could be taken against Anaconda in the form of a class action by the residents or in the form of individual tort claims. This is another area where the Pueblo will need to consider seeking political intervention on the part of the New Mexico delegation, i.e., to call for a study. Recall that in the past compensation to uranium miners for health impacts has not been popular with Congress, e.g., Senator Domenici was not successful in obtaining the passage of S. 1827, Uranium Miners Compensation Act of 1979. However, Congress may be more inclined to provide money for a study that would provide useful data and other information on health impacts of open-pit uranium mining. The Pueblo needs to pursue this.

Concerning hydrology of the mine site, it appears that this is one of the most complex areas of the reclamation project. The Water Resources Division (WRD) of the U.S.G.S. is completing its review of the Co's. study prepared by Dames & Moore. The groundwater recovery level is the key question here. The BIA (Mr. Pete Balleau-Area Hydrologist) met with Anaconda and its consultant recently in order to discuss the bases for Dames & Moore's conclusions. It was at this time that the Area introduced its engineering concepts for possible tunneling and channeling out of the pit areas into the established drainage systems. BLM is formulating and refining another alternative which will incorporate the engineering design for either tunneling/channeling. Let's examine the current cost estimates associated with reclamation and the impacts that the new drainage designs will have on costs. The following are the current estimates:

	Previous @ \$2.14/cu. yd.	Revised @ \$1.88/cu. yd.
Alternative A (Monitoring only)	\$ 10.6	\$ 10.600

Alternative B (Fencing as a Sacrifice Area)	\$ 22.52	\$ 23.924
Alternative C (AMC's Plan)	\$ 57.71	\$ 50.065
Alternative D (Task Force Alternative)	\$120.21	\$103.500
Alternative E (POL Alternative for High Use)	\$433.61	\$370.265
Alternative F (AMC's Plan Plus Channeling)	\$ 61.88	\$ 54.400
Alternative G (Task Force Alternative Incorporating Channeling)	\$ 66.39	\$ 58.500

The difference between D and F reflects a lower level of back-fill in F. The Pueblo's outside consultant, Hydro Geo Chem will be studying this engineering concept and provide advice to the Pueblo. At this time it is not clear what position the Pueblo should take.

The highwall issue is being studied by CERT through a consultant, Allan Ries, a former mining engineer with Anaconda. The North Paguate highwall is of major concern because of its proximity to the Village of Paguate. The Pueblo has previously asked for 3:1 sloping, but has since been advised by Dick Bornemann of the BIA/Office of Energy & Minerals in Golden, Colorado, that a 3:1 slope would take too much of the area between the Village and the existing pit highwall. Based on current estimates it appears that a 1.4:1 would achieve mitigation of the existing safety hazard. We have been successful in establishing a working relationship between CERT and the BIA on this issue as well as on the protore issue.

#### Mesita Reservoir

The siltation problem at the Mesita Reservoir was initially approached from a radiation contamination perspective; however, the Pueblo was advised by CERT and other federal agencies that the water contained therein met the Safe Drinking Water Act Standards. The Pueblo has recently received advise from the BIA that this issue could be approached from a siltation contribution perspective, i.e., during mining - what amount of the siltation will be attributable to the Company. It was suggested that the Pueblo seek the assistance of WRD on this issue. Mr. Bornemann suggests that core

sampling be accomplished via the "shelby tube" method. The Pueblo should continue to coordinate this with the BIA.

### CERT's Role

Fundamentally, CERT's assistance to the Pueblo has been lacking in substance. The reclamation plan submitted by Anaconda is backed-up by sophisticated engineering studies that quantify various factors. They provided the Pueblo with a "Critique" of the Plan and input at the various meetings we had with the Company and Federal Agencies. Governor Martinez, Roland Johnson and I met with David Lester and Dave Baldwin in order to create a partnership of sorts and to sort-out the tasks of the federal agencies and CERT. The tasks are thus parcelled-out as follows:

Highwalls - Dick Bornemann, BIA/Golden provided an initial analysis of the highwall problem which will be expanded by Allan Ries.

Hydrology - WRD's review of the Dames & Moore Report will provide additional information on the groundwater recovery level. The Pueblo's consultant, John Ward of Hydro Geo Chem will review all relevant studies and provide additional input on the drainage concepts proposed by Pete Balleau.

Radiation - The Argonne Synopsis and analysis of the channeling/tunneling designs will be submitted to the Task Force in mid-January. The Pueblo will need to review their report independently or rely on existing resources.

Disposition of Protore - Don Reynolds of CERT has done an outstanding Economic Evaluation of continued mining and blending and heap leaching the remaining stockpiled protore (17.5 million tons). This past June the Pueblo asked that CERT look at the possibility of operating MJ-45 for blending with the protore. Approval for DOE funding of this project was only recently obtained from DOE and the NRC met with Mr. Reynolds yesterday in order to prepare a schedule of activities as follows:

- CERT will develop a Mine Plan which will examine the extent of development in place in the MJ-45 workings, i.e., both primary and secondary; and identify equipment needs and associated costs.
- The Pueblo will begin discussions with utility companies wherein all possible commercial terms would be discussed, e.g., financing, pricing arrangements, and delivery obligations.
- Begin discussions with possible contract Millers, e.g., Bokum, Sohio and Kerr-McGee.

The NRC will simultaneously be examining alternative business structures for a mining and reclamation company. The Council should be advised that project funding for this issue will end as of March 31, 1984. The viability/non-viability of the project will provide the basis for the Pueblo's position on the disposition of the protore. This will be accomplished in the guise of comments on the Preliminary Draft of the EIS. This means that a decision on the protore will have to be made in January or February. Basically, all issues must be addressed in the Pueblo's comments on the Preliminary Draft of the EIS.

#### AMC Offer to Settle

Anaconda offered the Pueblo \$40.9 million in order to settle its acknowledged reclamation obligation. The \$40.9 million represents the present value of \$44.7 million. In today's dollars the \$44.7 million reclamation costs are more in the neighborhood of \$57.71 million. As you will recall, earlier in this year the Pueblo was successful in increasing the bond level to \$45 million without too much consternation on the part of Anaconda. This is not to say that they didn't consider appealing the decision of the BIA which was based on BLM's recommendation.

We sought and received the advice of the BIA/Golden on the proposal and it was their opinion that the \$40.9 million was inadequate for a \$56 million reclamation plan. Several scenarios were developed using interest and escalated reclamation costs as variables. This information gave the Pueblo valuable insight into the reasonableness of the offer, but it will need further refinement and perhaps the development of a linear computer programming model will provide a broader scope for the Pueblo's consideration. Further, the development of the following management scenarios will provide the Pueblo with the manner and method under which it might seek to undertake the project on its own:

- Tribal Venture
- Tribal Venture with Management Contract
- Joint Venture
- Turnkey Contract

The underlying assumption on each of these scenarios is that the Pueblo has agreed to undertake reclamation on its own and that Anaconda has made a cash payment to the Pueblo. This bring-up a second major area that I would like to discuss with you, i.e., the Pueblo's approach in dealing with Anaconda's offer to settle and the Pueblo's role as a Task Force Member.

#### SUMMARY

- The EIS has been delayed and the Preliminary Draft will possibly be out by the end of January, 1984.

- The Anaconda Offer to Settle is still open.
- The Pueblo has received a commitment from the Assistant Secretary for an additional \$65,000 for an analysis of Anaconda's offer and the refinement of management methods/scenarios. The Pueblo is looking at several engineering firms with the idea of contracting with one of them for this two-pronged study.
- The NRC will begin its contacts with the various interested utilities and milling companies while CERT develops a Mine Plan for NJ-45. The Council needs to sanction this course of action, in particular, the mailing of initial letters of inquiry. The letters will outline the status of the EIS and the fact that no firm commitments can be made until the EIS process has been completed.
- The Pueblo needs to request and follow-up on political intervention with the federal agencies at: (1) E.P.A.; (2) U.S.G.S.; and (3) Indian Health Service in regard to radiation monitoring; blast damage study and establishing a health profile on the residents of the Village of Paguate and former miners.

11 - 22 - 83

Date .

Ronald J. Solimon  
Ronald J. Solimon